

**UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF TEXAS  
AUSTIN DIVISION**

<b>UNITED STATES OF AMERICA,</b>	)	
	)	
<b>Plaintiff,</b>	)	
	)	
<b>v.</b>	)	<b>CRIMINAL NO. A-17-CR-175 SS</b>
	)	
<b>ROY EDWARD ATEES, JR.,</b>	)	
<b>a/k/a “Rhino”</b>	)	
<b>and</b>	)	
<b>CHASE RYAN SMITH,</b>	)	
<b>Defendants.</b>		

**GOVERNMENT’S NOTICE OF INTENT TO OFFER EVIDENCE  
PURSUANT TO RULE 902(11) OF THE FEDERAL RULES OF EVIDENCE**

Pursuant to Rule 902(11) of the Rules of Evidence, the government hereby notifies the Defendant of the government’s intent to offer records into evidence pursuant to Rule 902(11), and asks that the Defendant, not later than May 22, 2017, notify the government of any objections, so that the government can arrange for the appearance at trial of any witnesses that may be necessary.

**Pertinent Rules of Evidence**

The general rule against admission of hearsay, Rule 802, does not exclude from evidence certain records of regularly conducted activities. See Fed. R. Evid. 803(6). And Rule 803(6) provides that the facts that qualify a record for admission as records of regularly conducted activity may be “shown...by certification that complies with Rule 902(11).” Fed. R. Evid. 803(6).

Rule 902(11) provides: “Extrinsic evidence of authenticity as a condition precedent to admissibility is not required with respect to . . . [t]he original or a duplicate of a domestic record of regularly conducted activity that would be admissible under Rule 803(6) if accompanied by a

written declaration of its custodian or other qualified person . . . certifying that the record – (A) was made at or near the time of the occurrence of the matters set forth by or from information transmitted by, a person with knowledge of those matters; (B) was kept in the course of the regularly conducted activity; and (C) was made by the regularly conducted activity as a regular practice.” Fed. R. Evid. 902(11). Rule 902(11) also provides: “A party intending to offer a record into evidence under this paragraph must provide written notice of that intention to all adverse parties, and must make the record and declaration available for inspection sufficiently in advance of their offer into evidence to provide an adverse party with a fair opportunity to challenge them.” Fed. R. Evid. 902(11).

**Evidence to be Offered Under Rule 902(11)**

The government intends to offer business records described below pursuant to Rule 902(11). The government will make the business records and related declarations available to the Defendants at the United States Attorney’s Office at the request of the Defendant(s) and they have been provided to the Defendants in discovery as well.

1. Business records of the National Insurance Crime Bureau regarding shipping and assembly records form Ford Motor Company, Dearborn, MI and reflecting that a 2000 Ford Ranger with Vehicle Identification Number 1FTYR10C1YPA89296 was assembled as a new vehicle at the Twin Cities: St. Paul, MN assembly plant and was shipped on 01/12/00 to Dealer 52E056 – Red McCombs Ford, 8333 Interstate 10, San Antonio, TX 78230.

2. 19 pages of medical records from Scott & White Hospital – Brenham consisting of any and all records pertaining to treatment or procedures of Adrian Cuellar, D.O.B.: xx/xx/19xx from 07/02/2016 through release.

Respectfully submitted,

RICHARD L. DURBIN, JR.  
UNITED STATES ATTORNEY



By:

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**CERTIFICATE OF SERVICE**

I hereby certify that on the 16th day of May, 2017, I electronically filed the foregoing with the Clerk of Court using the CM/ECF system which will send notification of such filing to the following:

Mr. Horatio Aldredge  
Attorney for the Defendant Roy Edward Ates, Jr. a/k/a "Rhino"

Mr. Tracy Cluck  
Attorney for the Defendant Chase Ryan Smith

and I hereby certify that I have mailed by United States Postal Service the document to the following non-CM/ECF participants:

(None.)



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GRANT SPARKS  
Assistant U.S. Attorney